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OFFICE OF PETITIONS

In re Application of :
Kight et al. : DECISION GRANTING PETITION
Application No. 09/892,897 :
Filed: 28 June, 2001 :
Atty's Docket No. 3350-89 :
:

This is a decision on the petition filed on 15 January, 2002, requesting that the above-identified application, including Figure 13 described in the specification, be accorded a filing date of 28 June, 2001.

On 28 June, 2001, the application was filed.

On 22 August, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 28 June, 2001, but that, *inter alia*, Figure 13 described in the specification appeared to have been omitted. Additionally, on 7 November, 2001, a Notice of Incomplete Reply (Nonprovisional) was mailed, stating that Figure 13 described in the specification appeared to have been omitted.

In response, on 15 January, 2002 (certificate of mailing date 7 December, 2001), one (1) sheet of drawings containing Figure 13 and the present petition were submitted. Petitioners assert that one (1) sheet of drawings containing Figure 13 was filed with the other application papers on 28 June, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' two postcard receipts were supplied with the present petition. Both postcard receipts shows an Office date stamp of 28 June, 2001, and one identifies the application by application number. Both identify the application by attorney docket number, and invention title, and acknowledge receipt, *inter alia*, of 26 sheets of drawings. Petitioners

request that the application, including the one (1) sheet of drawings containing Figure 13 be accorded a filing date of 28 June, 2001.

Upon further review, 25 sheets of drawings containing Figures 1A-1B, 3-8, 9A-9B, 10-12, 14, 15, 16A, 16B, 17, 18A, 18B, 19, 20A-20C have been located in the file. However, the evidence is convincing that the application papers deposited on 28 June, 2001, included one (1) sheet of drawing containing Figure 13 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 13 as described in the specification, is entitled to a filing date of 28 June, 2001.

Accordingly, the Notice to File Missing Parts of Nonprovisional Application mailed on 22 August, 2001, is hereby vacated to the extent that it stated that Figure 13 described in the specification appeared to have been omitted. Additionally, the Notice of Incomplete Reply mailed on 7 November, 2001, is withdrawn.

In view of the above, the petition is granted. The petition fee of \$130.00 will be credited to counsel's deposit account, No. 12-0429.

The application will be processed using the application papers, filed on 28 June, 2001, and the one (1) sheet of drawings containing Figure 13 supplied on 15 January, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 28 June, 2001, using the application papers filed that date, and the one (1) sheet of drawings containing Figure 13 supplied on 15 January, 2002, and for an indication on the bib-data sheet that 26 sheets of drawings were present on filing.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

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